

UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION

In the Matter of:

JAMES BALDINI
Former Officer of Comfed
Savings Bank

Lowell, Massachusetts.

OTS Order No. NE95-15

Dated: November 27, 1995

STIPULATION AND CONSENT TO THE ENTRY OF AN
ORDER TO CEASE AND DESIST FOR
AFFIRMATIVE RELIEF

WHEREAS, the Office of Thrift Supervision ("OTS"), based upon information derived from the exercise of its regulatory responsibilities, has informed JAMES BALDINI ("BALDINI"), a former Vice-President of Comfed Savings Bank, Lowell, Massachusetts ("ComFed"),¹ OTS No. 3483, that OTS is of the opinion that grounds exist to initiate an administrative cease and desist proceeding against BALDINI pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(b).²

WHEREAS, BALDINI desires to cooperate with the OTS and to avoid the time and expense of such administrative proceeding and,

1. All references to the U.S.C. are as amended.
2. ComFed includes its holding company and any of ComFed's affiliates or subsidiaries.

without admitting or denying that such grounds exist, except as to the jurisdiction of the OTS, which is admitted, hereby stipulates and agrees to the following terms:

1. Jurisdiction.

(a) "ComFed" was a "savings association" within the meaning of Section 3(b) of the FDIA, 12 U.S.C. § 1813(b), and Section 2(4) of the Home Owners' Loan Act, 12 U.S.C. § 1462(4). Accordingly, it was an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, 12 U.S.C. § 1813(c).

(b) BALDINI was an officer of ComFed and is an "institution-affiliated party" of ComFed as that term is defined in Section 3(u) of the FDIA, 12 U.S.C. § 1813(u), having served in such capacity within six years of the date of execution of this Stipulation and Consent.

(c) Pursuant to Section 3(q) of the FDIA, 12 U.S.C. § 1813(q), the Director of the OTS is the "appropriate Federal Banking agency" to maintain an enforcement proceeding against a savings association and/or its institution-affiliated parties. Therefore, BALDINI is subject to the jurisdiction of the OTS to initiate and maintain a Cease and Desist proceeding against him pursuant to Section 8(b) of the FDIA, 12 U.S.C. § 1818(b).

JAMES BALDINI STIPULATION

2. OTS Findings of Fact. The OTS finds that BALDINI violated internal lending procedures and engaged in unsafe or unsound conduct in connection with ComFed's extension of the Willows of Winchester loan. BALDINI caused ComFed to close the \$9.66 million loan in March, 1988 despite the lack of approval of ComFed's internal loan committee. The loan committee had required BALDINI to secure participants in the loan, which would have reduced ComFed's exposure to risk of loss. However, the loan closed, at BALDINI'S direction, despite a failure to secure the required participants. Also, ComFed's internal lending procedures required four directors to approve any loan in excess of \$4 million. BALDINI caused the loan to close with the approval of only two directors. As a result of this transaction, ComFed suffered a loss of approximately \$3,000,000.
3. Consent. BALDINI consents to the issuance by the OTS of the attached Order to Cease and Desist for Affirmative Relief ("Order"). BALDINI further agrees to comply with the terms of the Order upon issuance and stipulates that the Order complies with all requirements of law.
4. Finality. The Order is issued under Section 8(b) of the FDIA, 12 U.S.C. § 1818(b). Upon its issuance, it shall be a final order, effective and fully enforceable by the OTS under the provisions of Section 8(i) of the FDIA, 12 U.S.C. § 1818(i).

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5. Waivers. (a) BALDINI waives his right to a notice of charges and the administrative hearing provided by Section 8(b) of the FDIA, 12 U.S.C. § 1818(b), and further waives any right to seek judicial review of the Order, including any such right provided by Section 8(h) of the FDIA, 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Order.

(b) BALDINI acknowledges and agrees that his consent to the entry of the Order is for the purpose of resolving this OTS enforcement matter only and does not resolve, affect or preclude any other civil or criminal proceeding that may be or has been brought by the OTS or another governmental entity.

(c) By signing this document, BALDINI agrees that he will not assert the assessment or payment of any monies or the providing of any other financial relief as contemplated by the Order as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other governmental entity. The OTS is of the view that the affirmative payments pursuant to 12 U.S.C. § 1818(b)(6)(A) are remedial and not punitive in nature, and BALDINI does not and will not contest this.

(d) BALDINI waives any and all claims for the award of fees, costs or expenses related to this OTS enforcement matter

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and/or the Order, whether arising under common law or under the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412.

(e) In any bankruptcy proceeding in which it is or may be contended that BALDINI's obligation to make the payment of restitution pursuant to the STIPULATION AND CONSENT and the ORDER is subject to discharge, BALDINI will in no manner contest OTS's assertions, under 11 U.S.C. § 523(a)(11) or otherwise, that the obligation is for, and the ORDER arises out of, acts that result in claims not dischargeable in bankruptcy in any circumstances, pursuant to any of the provisions of the United States Bankruptcy Code.


6. Indemnification. BALDINI shall neither cause nor permit ComFed to incur, directly or indirectly, any expense for the amount of the restitution under the Order or any legal (or other professional expenses) incurred relative to the negotiation and issuance of the Order, nor obtain any indemnification (or other reimbursement) from ComFed with respect to such amounts. Any payments received by or on behalf of BALDINI or in connection with this action shall be remitted to the RTC.

JAMES BALDINI STIPULATION


WHEREFORE, BALDINI executes this Stipulation and Consent to the Entry of an Order to Cease and Desist, intending to be legally bound hereby.

By:

Accepted by:



JAMES BALDINI



ANGELO A. VIGNA
Regional Director
Northeast Region

Date: Oct. 20, 1995

11/27/95

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Dated: November 27, 1995

ORDER TO CEASE AND DESIST FOR
AFFIRMATIVE RELIEF

WHEREAS, James Baldini ("BALDINI") has executed a Stipulation and Consent to the Entry of an Order to Cease and Desist ("Stipulation"), which is incorporated herein by reference; and

WHEREAS, BALDINI, in the Stipulation, has consented and agreed to the issuance of this Order to Cease and Desist for Affirmative Relief ("Order") pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(b)¹; and

WHEREAS, the Acting Director of the Office of Thrift Supervision ("OTS") has delegated to the Regional Director of the OTS the authority to issue Orders to Cease and Desist for Affirmative Relief on behalf of the OTS where a respondent has consented to the issuance of the Order.

1. All references to the U.S.C. are as amended.

NOW THEREFORE, IT IS ORDERED THAT:

1. BALDINI shall cease and desist from any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling or the aiding and abetting of any unsafe or unsound practice, including, but not limited to, violations of internal lending procedures of any insured depository institution, as that term is defined by Section 3(c) of the FDIA, 12 U.S.C. § 1813(c).

2. BALDINI shall cease and desist from any acts, omissions, or practices that constitute a breach of fiduciary duty to any insured depository institution, or a violation of any applicable federal or state law or regulation.

3. BALDINI shall abstain from voting, or otherwise participating in any manner, with respect to any loans, investments, or business transactions submitted for the approval of management or the board of directors of an insured depository institution of which BALDINI is an institution-affiliated party, which do not comply with the intended lending policies and practices of the insured depository institution.

4. BALDINI shall pay restitution in the amount of \$285,000 to the Resolution Trust Corporation ("RTC"). Payments shall be made by BALDINI to the RTC in accordance with the terms of a certain Compromise, Settlement Agreement and Release between

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BALDINI, et al. and the RTC dated _____, 1995, and such payments shall apply to the restitution obligation required by this Order. Full performance by BALDINI of all his obligations in accordance with the Compromise, Settlement Agreement and Release and execution of the appropriate releases by the RTC thereunder, shall satisfy the restitution obligation required by this Or der.

5. BALDINI shall promptly respond to any request from the OTS for documents that the OTS reasonably requests to demonstrate compliance with this Order.

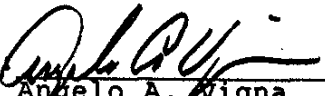
6. All words or terms used in this Order, for which meanings are not specified or otherwise provided by the provisions of this Order, shall have meanings as defined in Chapter V of Title 12 of the Code of Federal Regulations, the Home Owners' Loan Act, FDIA, and the Financial Institutions' Reform Recovery and Enforcement Act.

7. In the event any provision of this Order shall be declared invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

JAMES BALDINI, CEASE AND DESIST ORDER

8. This Order shall become effective on the date of its issuance, and remain in effect until terminated, modified, or suspended by the OTS.

THE OFFICE OF THRIFT SUPERVISION

By 
Angelo A. Vigna
Regional Director
Northeast Region

JAMES BALDINI, CEASE AND DESIST ORDER